

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEREMY RADLEY,

Plaintiff,

v.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant.

4:23CV3127

ORDER

On July 11, 2023, plaintiff Jeremy Radley (“Radley”) brought this action (Filing No. 1) against the Commissioner of the Social Security Administration (“Commissioner”) challenging the denial of his request for disability benefits. *See* 42 U.S.C. § 405(g) (setting forth the procedure and standards for judicial review of a final decision of the Commissioner). After the Commissioner answered his complaint, Radley filed a Motion for Judgment on the Pleadings¹ (Filing No. 19) asserting the Commissioner reached that decision without substantial evidence to support it and “erred as a matter of law in denying his claim.” *Travis v. Astrue*, 477 F.3d 1037, 1040 (8th Cir. 2007) (“Substantial evidence is less than a preponderance, but enough that a reasonable mind would find it adequate to support the Commissioner’s conclusions.”).

The Commissioner, on the other hand, moved for an “order affirming [his] decision,” asserting Radley “had a fair hearing and full administrative consideration” and his denial was supported by substantial evidence (Filing No. 21). Radley, unsurprisingly, opposes that motion (Filing No. 24). The Court referred both motions to the magistrate

¹Under General Order No. 2022-13 entered in this case (Filing No. 4), Radley’s motion should have been styled as one for “an order reversing the Commissioner’s decision.” The magistrate judge noted this error and construed “Radley’s motion as a motion for an order reversing the Commissioner’s decision.” The Court does the same here.

judge,² who carefully reviewed the extensive administrative record in this matter. *See* 28 U.S.C. § 636(b)(1) (permitting a district court to “designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion”).

Now before the Court is the magistrate judge’s Findings and Recommendation (Filing No. 26) recommending the Court grant Radley’s motion and deny the Commissioner’s motion. The magistrate judge recommends the Court reverse the Commissioner’s decision and remand the matter for further administrative proceedings. In particular, the magistrate judge concludes the administrative law judge in the matter erred by drawing his “own inferences from the medical records” in finding Radley’s cane use “was not medically necessary” as well as by failing to “evaluate the consistency of” his treating physician’s opinion. She also warned the Commissioner that failing to object to her recommendation “may be construed as a waiver of the right to object to the district judge’s order adopting the recommendation.” NECivR 72.2(f).

The time to object to the magistrate judge’s Findings and Recommendation has come and gone, *see id.* 72.2(a), and no objection has been filed. Finding no need to conduct further review of this matter, the Court adopts her Findings and Recommendation in full. *See Thomas v. Arn*, 474 U.S. 140, 149-150 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609, 619-20 (8th Cir. 2009) (“[T]he failure to file objections eliminates not only the need for de novo review, but *any* review by the district court.”). As such,

IT IS ORDERED:

1. The magistrate judge’s Findings and Recommendation (Filing No. 26) is accepted in its entirety. Any objections are deemed waived.

²The Honorable Jacqueline M. DeLuca, United States Magistrate Judge for the District of Nebraska.

2. Plaintiff Jeremy Radley's Motion for Judgment on the Pleadings (Filing No. 19) is construed as a motion for an order reversing the Commissioner's decision and is granted.
3. The Commissioner's Motion to Affirm Commissioner's Decision (Filing No. 21) is denied.
4. The Commissioner's final decision is reversed, and this case is remanded for further administrative proceedings.
5. A separate judgment will issue.

Dated this 23rd day of April 2024.

BY THE COURT:



Robert F. Rossiter, Jr.
Chief United States District Judge